
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1176 Session of
1993

INTRODUCED BY PETRONE, THOMAS, NAILOR, HECKLER, CESSAR,
D. W. SNYDER, GEIST, DeLUCA, CLYMER, BUNT, CORNELL, NICKOL,
SCHEETZ, KAISER, MARKOSEK, MAYERNIK, MELIO, COLAIZZO,
DeWEESE, KASUNIC, GAMBLE, FAJT, ITKIN, McNALLY, CALTAGIRONE,
BATTISTO, LUCYK, DALEY, WILLIAMS, RAYMOND, TANGRETTI AND
SANTONI, APRIL 19, 1993

REFERRED TO COMMITTEE ON STATE GOVERNMENT, APRIL 19, 1993

AN ACT

1 Providing for the selection of registered architects,
2 professional engineers, landscape architects and land
3 surveyors to provide professional services to Commonwealth
4 agencies; and making repeals.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Short title.

8 This act shall be known and may be cited as the Professional
9 Design Service Procurement Law.

10 Section 2. Definitions.

11 The following words and phrases when used in this act shall
12 have the meanings given to them in this section unless the
13 context clearly indicates otherwise:

14 "Agency head." The secretary, director, commissioner or
15 other chief executive officer of a Commonwealth agency. Whenever
16 an agency is administered by a board, commission or other group
17 of individuals, the agency head shall be deemed to be the full

1 board, commission or group of individuals unless the individuals
2 expressly delegate their responsibilities pursuant to this act
3 to a single individual.

4 "Commonwealth agency." An executive or independent agency.

5 "Design professional." A registered architect, professional
6 engineer, landscape architect or land surveyor licensed to
7 provide professional services under the laws of this
8 Commonwealth, or a professional association, corporation or
9 partnership or other legal entity authorized by the laws of this
10 Commonwealth to provide professional services.

11 "Design professional services." Those professional services
12 within the scope of the practice of architecture, engineering,
13 landscape architecture or land surveying, including studies,
14 investigations, surveying, mapping, tests, evaluations,
15 consultations, comprehensive planning, program management,
16 conceptual design, plans and specifications, value engineering,
17 construction phase services, soils engineering, drawing reviews,
18 preparation of operating and maintenance manuals and other
19 related services associated with research, planning,
20 development, design, construction, alteration or repair of real
21 property.

22 "Executive agency." The Governor and every department,
23 board, commission, authority and other officer and agency of the
24 Commonwealth. The term does not include any court or other
25 officer or agency of the unified judicial system or the General
26 Assembly and its officers and agencies.

27 "Independent agency." Every board, commission, authority and
28 other agency and officer of the Commonwealth which is not
29 subject to the policy supervision and control of the Governor.
30 The term does not include any court or other officer or agency

1 of the unified judicial system or the General Assembly and its
2 officers and agencies.

3 Section 3. Policy.

4 It is the policy of the Commonwealth to publicly announce all
5 requirements for design professional services and to negotiate
6 contracts with design professionals on the basis of demonstrated
7 competence and qualification for the type of services required
8 and at fair and reasonable prices. Commonwealth agencies shall
9 not adopt any rule or regulation or establish any procedure for
10 the procurement of design professional services based directly
11 or indirectly upon price-based competitive bidding.

12 Section 4. Selection committee.

13 In the procurement of design professional services, the
14 agency head shall encourage design professionals to submit a
15 statement of qualifications and performance data. Except for the
16 Department of General Services, which shall utilize a selection
17 committee as provided by section 2401.1(19) of the act of April
18 9, 1929 (P.L.177, No.175), known as The Administrative Code of
19 1929, the agency head shall appoint a selection committee to
20 evaluate current statements or qualifications and performance
21 data and shall conduct discussions with or review technical
22 proposals from no less than three design professionals for every
23 contract. The selection committee shall select, and rank in
24 order of preference, based upon criteria established and
25 published by the selection committee, no less than three of the
26 design professionals deemed to be the most highly qualified to
27 provide the services required.

28 Section 5. Negotiation.

29 The agency shall negotiate a contract with the highest
30 qualified design professional at compensation which the agency

1 determines is fair and reasonable to the Commonwealth. In making
2 the determination, the agency shall take into account the
3 estimated value and the scope, complexity and nature of the
4 services to be performed. Should the agency be unable to
5 negotiate a satisfactory contract with the firm considered to be
6 most qualified at a fair and reasonable compensation,
7 negotiations with that design professional shall be formally
8 terminated. The agency shall then undertake negotiations with
9 the second most qualified design professional. Failing accord
10 with the second highest qualified design professional, the
11 agency shall formally terminate negotiations and then undertake
12 negotiations with the third highest qualified design
13 professional. Should the agency be unable to negotiate a
14 satisfactory contract with any of the highest qualified design
15 professionals, the selection committee shall select additional
16 qualified firms, and the agency shall continue negotiations in
17 accordance with this section until an agreement is reached. The
18 agency shall have the right to withdraw the project at any time
19 during the negotiation process.

20 Section 6. Emergency procurement.

21 The agency head may make an emergency procurement where there
22 exists a threat to public health, welfare or safety. The
23 emergency procurement shall be confirmed by the selection
24 committee.

25 Section 7. Code of conduct.

26 (a) Standards.--No employee, officer or agent of any design
27 professional submitting a letter of interest or receiving a
28 contract pursuant to this act shall:

29 (1) Make or offer any political contribution for the
30 purpose of influencing a decision regarding the award of

1 contracts under this act.

2 (2) Make or offer any gift to any Commonwealth officer,
3 official or employee regarding the award of contracts under
4 this act.

5 (3) Make or offer any political contribution or gift to
6 any person based upon the award of any contract under this
7 act.

8 (b) Applicable laws and regulations.--All Commonwealth
9 officials and employees associated in any way with the award of
10 contracts under this act, including members of selection
11 committees, and all employees, officers and agents of firms
12 submitting proposals and entering into contracts under this act
13 shall, as appropriate, comply with the provisions of the
14 following:

15 (1) The act of July 19, 1957 (P.L.1017, No.451), known
16 as the State Adverse Interest Act.

17 (2) Contract compliance Executive Orders or Management
18 Directives, including Executive Order 1984-1, 4 Pa. Code Ch.
19 1 Subch. M (relating to affirmative action); and Management
20 Directive 215.7.

21 (3) Any code of conduct for appointed officials and
22 State employees adopted by executive order, including
23 Executive Order 1980-18, 4 Pa. Code Ch. 7 Subch. K (relating
24 to code of conduct for appointed officials and State
25 employes).

26 (4) Section 215 of the act of April 9, 1929 (P.L.177,
27 No.175), known as The Administrative Code of 1929.

28 (5) All management directives relating to contractor
29 integrity, including Management Directive 215.8.

30 (6) The act of October 4, 1978 (P.L.883, No.170),

1 referred to as the Public Official and Employee Ethics Law.

2 (7) Section 1641 of the act of June 3, 1937 (P.L.1333,
3 No.320), known as the Pennsylvania Election Code, for which
4 purpose contracts awarded pursuant to this act shall be
5 deemed nonbid contracts.

6 Section 8. Repeals.

7 All acts and parts of acts are repealed insofar as they are
8 inconsistent with this act.

9 Section 9. Effective date.

10 This act shall take effect in 60 days.